

IN THE HIGH COURT OF GUJARAT
AT AHMEDABAD

Date of decision: 19th January 1996

SPECIAL CIVIL APPLICATION NO.3692 OF 1983

THE HONOURABLE MR. JUSTICE S.K.KESHOTE

Miss Kusum M.Shah, Advocate, for the Petitioner.

Miss S.K.Mandavia, Assistant Government Pleader, for the Respondents.

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| 1. | Whether Reporters of Local Papers may be allowed to see the judgment? | Yes |
| 2. | To be referred to the reporter or not? | No |
| 3. | Whether their Lordships wish to see the fair copy of judgment? | No |
| 4. | Whether this case involved a substantial question of law as to the interpretation of the Constitution of India, 1.. | No |

thereunder?

5. Whether it is to be circulated to the Civil Judge? No

Coram: S.K.Keshote, J.
(19th January 1996)

Oral Judgment:

Having heard the learned counsel for the parties, I am of the opinion that respondent No.1 has acted in a highly arbitrary manner in passing a non-speaking order. None of the respondents has replied to the writ petition,

and as such the averments made therein stand uncontroverted. I have perused the copy of the letter at Annexure-A and it is not a speaking order. The petitioner was appointed as an Octroi Inspector on 22nd October 1969. The petitioner has contended that in Deesa Nagar Palika, the pay scale of Shop Inspector and that of Octroi Inspector was same, whereas the pay scale of Food Inspector was lower. On the recommendation of the Desai Pay Commission, the pay scale of the Inspectors in all the Departments of the State Government was revised to Rs.425-700 with effect from 1.1.1977. The grievance of the petitioner is that, though the pay scale of Food Inspector and Shop Inspector of Deesa Nagar Palika was revised to bring them with the line of the pay scale of Inspectors in other Departments of the State, but it has not been done in the case of the petitioner. The petitioner submitted his representation to respondent No.3 to give him the pay scale of Rs.425-700 with effect from 1.1.1973. Respondent No.3 has made a proposal for revision of the pay scale of the petitioner so as to bring it in line with the pay scale of other two Inspectors working in the Deesa Nagar Palika, and the same was sent to the Collector concerned. The Collector on receiving of the recommendation, directed respondent No.3 to pass the necessary resolution in this respect. The petitioner has made a further statement which stands uncontroverted that respondent No.1 has also directed respondent No.3 to pass the necessary resolution and submit the proposal to the Collector for revising the pay scale of the petitioner. Accordingly, respondent No.3 passed Resolution No.68 on 24.9.1982 and submitted the same to respondent No.1 through the Collector of Banaskantha for revision of the pay scale of the petitioner, but respondent No.1 rejected the proposal. The grievance of the petitioner is that when both respondents Nos.1 and 2 recommended for passing the resolution to bring the pay scale of the petitioner in line with the pay scale which has been given to other two Inspectors working in the Nagar Palika, respondent No.1 has committed a serious irregularity in not extending those benefits to him.

2. Looking to the first contention raised by the learned counsel for the petitioner, I do not consider it to be proper to advert to all other contentions, particularly more so when I considered it to be fit case to send the matter to respondent No.1 for passing a speaking order.

3. Looking to the fact that the pay scale of the petitioner was in line with the pay scale of Shop

Inspector and was higher than the pay scale of Food Inspector, the grievance of the petitioner of not bringing the pay scale of his post in line with the pay scale of other Inspectors cannot be said to be without any substance. When respondent No.1 himself has recommended for passing the necessary resolution to bring the pay scale of the petitioner in line with the pay scale of other two posts of Inspectors aforesaid, then, in case he declines to pass such resolution, it is obligatory on his part to give out the reasons for the same which has not been done admittedly. It is the case where an Inspector who was in line with the same pay scale of other two Inspectors has not been extended the same benefits which were given to the other two Inspectors. Taking into consideration the facts and circumstances of the present case, the order at Annexure-A passed by respondent No.1 cannot be allowed to stand.

4. In the result, this petition is allowed. The order of respondent No.1 dated 19.3.1982 at Annexure-A rejecting the proposal of respondent No.3 is set aside. It is directed that respondent No.1 shall consider the matter afresh and shall pass appropriate order, but in case he does not approve the Resolution of respondent No.3 regarding grant of revised pay scale to the petitioner, he shall pass a reasoned order and a copy of the same shall be sent to the petitioner by speed post. Rule made absolute in aforesaid terms.

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